

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN CLEMENT LANGLEY,)	
)	
Petitioner,)	Case No. 1:06-cv-881
)	
v.)	Honorable Robert Holmes Bell
)	
STATE OF MICHIGAN, et al.,)	
)	<u>ORDER OF DISMISSAL</u>
Respondents.)	
)	

This matter is before the court on petitioner's objections to the report and recommendation of the magistrate judge. The magistrate judge concluded that the habeas corpus petition should be dismissed because petitioner was not in custody at the time the petition was filed, as required by 28 U.S.C. § 2254(a). Petitioner has filed an objection, claiming that he is in custody and attaching certain records of the Lake County Circuit Court in support of his contention. This court affords *de novo* review to objections to the report and recommendation of a magistrate judge. FED. R. CIV. P. 72(b).

Upon review of petitioner's objections, the court concurs that petitioner is not in custody, as required by the Habeas Corpus Act. The attachments to petitioner's objections merely refer to an ordinance enforcement proceeding in the state courts, pursuant to which the owner is required to remove vehicles, tires, travel trailers, and scrap metal from real property. The pendency of a civil action involving real estate is plainly insufficient to satisfy the "in custody" requirement of section 2254(a). Accordingly:

IT IS ORDERED that the report and recommendation of the magistrate judge (docket # 2) is ADOPTED as the opinion of this court.

IT IS FURTHER ORDERED that petitioner's objections (docket # 3) are hereby OVERRULED.

IT IS FURTHER ORDERED AND ADJUDGED that this action is DISMISSED for lack of jurisdiction.

Date: January 24, 2007

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
CHIEF UNITED STATES DISTRICT JUDGE